

EXHIBIT

A

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Brian Kelly, Plaintiff, v. United Payment Center Inc., Defendant.	Case No.: 0:22-cv-1799-ECT-JFD DEFENDANT UNITED PAYMENT CENTER INC.'S SECOND OFFER OF JUDGMENT TO PLAINTIFF BRIAN KELLY UNDER RULE 68, FEDERAL RULES OF CIVIL PROCEDURE
-----------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

TO: Plaintiff Brian Kelly and his attorneys Peter Barry, The Barry Law Office, Ltd, 333 Washington Ave. No, Suite 300-9038, Minneapolis, MN 55401-1353 and Joshua Swigart, Swigart Law Group, APC, 2221 Camino Del Rio South Suite 308, San Diego, CA 92108

Pursuant to Rule 68, Federal Rules of Civil Procedure (“Rule 68”), and without admitting any liability and subject to the terms described below, Defendant United Payment Center Inc. (“UPC”) hereby offers to have final judgment entered against it with respect to the factual allegations and claims asserted by Plaintiff Brian Kelly in his operative Amended Complaint in this matter (“Claims”):

1. UPC does not admit and affirmatively denies that it is liable or responsible in any way for the damages Plaintiff has alleged in connection with his Claims.
2. UPC makes this offer solely to allow the parties to move forward and to avoid the costs associated with litigating the Claims.
3. Judgment will be taken against UPC, and in favor of Plaintiff as follows:
 - a. Payment to Plaintiff in the amount of ten thousand dollars (\$10,000) together with his reasonable attorneys’ fees and costs to be determined by the

court, which collectively comprises all damages and relief that could be awarded to Plaintiff in a final aggregate judgment against UPC including, but not limited to, statutory, compensatory, consequential, punitive, liquidated, actual monetary loss, and/or emotional distress damages that Plaintiff alleges, and inclusive of prejudgment interest, costs and disbursements, and applicable attorneys' fees; and

b. Dismissal of this action with prejudice.

4. This Offer of Judgment is conditioned on its acceptance by Plaintiff; unless he accepts, this offer will be deemed rejected.

5. This Offer of Judgment is also conditioned on approval of the judgment by the Court after acceptance by Plaintiff.

6. If this Offer of Judgment is not accepted by Plaintiff within fourteen (14) days after service of the offer, it will be deemed withdrawn pursuant to Rule 68.

7. Evidence of this Offer of Judgment may not be given at trial, except in a proceeding to determine attorneys' fees and costs as relevant. If accepted but not later approved by the Court, this offer will impose no obligation on any party, and evidence of the offer may not be given at trial or used for any purpose in this case.

8. Pursuant to Rule 68(d), if Plaintiff does not accept this Offer of Judgment, and the final judgment in this matter is not more favorable to Plaintiff than the terms of this Offer of Judgment, Plaintiff must pay the costs incurred by UPC in this action after the date that this Offer of Judgment was made.

9. This Offer of Judgment is an offer to compromise under Rule 408 of the

Federal Rules of Evidence and is made for the purposes specified in Rule 68, and neither this offer, nor any resulting judgment, may be deemed or offered or received in evidence as a presumption, concession or admission by UPC of any fault, liability, or wrongdoing in this action, or that Plaintiff or any other person has suffered any damages or is otherwise entitled to any relief whatsoever.

Dated: May 2, 2023

Gordon Rees Scully Mansukhani LLP

/s/ **Dan Brees**

Suzanne L. Jones, MN Bar No. 389345
David A. Schooler, MN Bar No. 225782
Daniel P. Brees, MN Bar No. 395284
Gordon Rees Scully Mansukhani LLP
80 S. 8th Street, Suite 3850
Minneapolis, MN 55402
Ph: 612-351-5969
sljones@grsm.com
dschooler@grsm.com
dbrees@grsm.com

***Attorneys for Defendant,
United Payment Center Inc.***

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Brian Kelly, Plaintiff, v. United Payment Center Inc., Defendant.	Case No.: 0:22-cv-1799-ECT-JFD DECLARATION OF SERVICE
-----------------------------------------------------------------------------------------------	---------------------------------------------------------------------

Jodi B. Soucek, of the City of St. Louis Park, County of Hennepin, State of Minnesota, declares that on the 2nd day of May, 2023, the following:

**Defendant United Payment Center's Second Offer of Judgment to Plaintiff
Brian Kelly Under Rule 68, Federal Rules of Civil Procedure**

was served upon:

Peter F. Barry
The Barry Law Office, Ltd.
333 Washington Ave No, Suite 300-9038
Minneapolis, MN 55401-1353

Joshua Swigart
Swigart Law Group, APC
2221 Camino Del Rio South , Suite 308
San Diego, CA 92108

by depositing true and correct copies, with sufficient postage, in the U.S. Mail to said party at their last known address, with courtesy copies via electronic mail to pbarry@lawpoint.com and josh@swigartlawgroup.com.

I declare under penalty of perjury that everything
I have stated in this document is true and correct,
pursuant to Minn. Stat. § 358.116.

Dated: May 2, 2023
Signed at Hennepin County, MN

s/ Jodi B. Soucek
Jodi B. Soucek